

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Securities and Exchange Commission,	:	Cv. 07-3928
 Plaintiff		 <u>ANSWER AND</u>
 -against-	:	 <u>AFFIRMATIVE</u>
		 <u>DEFENSES</u>
 THOMAS MACLI, DONNA MACLI,	:	
LUMAC CORP. <i>et al.</i>		
 Defendants	:	
-----X		

Defendants THOMAS MACLI, DONNA MACLI, and LUMAC CORP. ("Defendants"), by their attorney of record, RUBINSTEIN & COROZZO, LLP, hereby answer the Plaintiff's Amended Complaint in the above-entitled action, and state to this Court upon information and belief the following:

1. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "1" of the Complaint.
2. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "2" of the Complaint.
3. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "3" of the Complaint.
4. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "4" of the Complaint.
5. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "5" of the Complaint.
6. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "6" of the Complaint.
7. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "7" of the Complaint.
8. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "8" of the Complaint.
9. Defendants deny knowledge or information sufficient to form a belief as to

the allegations contained in paragraph designated "9" of the Complaint.

10. Defendants deny the allegations contained in paragraph designated "10" of the Amended Complaint, except to admit D. Macli is the sister of Andrew Cacciopoli, that D. Macli and T. Macli are married, that D. and T. Macli owned LUMAC Corp., and T. Macli was a mailman, and D. Macli a dental receptionist.

11. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "11" of the Complaint.

12. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "12" of the Complaint.

13. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "13" of the Complaint.

14. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "14" of the Complaint.

15. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "15" of the Complaint, except to agree that the Court has jurisdiction over this action and that venue lies in this District.

16. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "16" of the Complaint.

17. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "17" of the Complaint.

18. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "18" of the Complaint.

19. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "19" of the Complaint.

20. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "20" of the Complaint.

21. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "21" of the Complaint.

22. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "22" of the Complaint.

23. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "23" of the Complaint.

24. Defendants deny knowledge or information sufficient to form a belief as to

the allegations contained in paragraph designated "24" of the Complaint.

25. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "25" of the Complaint.

26. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "26" of the Complaint.

27. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "27" of the Complaint.

28. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "28" of the Complaint.

29. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "29" of the Complaint.

30. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "30" of the Complaint.

31. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "31" of the Complaint.

32. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "32" of the Complaint.

33. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "33" of the Complaint.

34. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "34" of the Complaint.

35. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "35" of the Complaint.

36. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "36" of the Complaint.

37. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "37" of the Complaint.

38. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "38" of the Complaint.

39. Defendants admit facts contained in paragraph designated "39" of the Complaint, except deny that Caccipoli is currently employed by Penson.

40. Defendants admit the facts contained in paragraph "40" of the Complaint.
41. Defendants admit the facts contained in paragraph "41" of the Complaint.
42. Defendants admit LUMAC is a New York corporation with business addresses in Cortland Manor, New York and Jefferson Valley, New York and that D. Macli and T. Macli are the sole officers and shareholders of LUMAC.
43. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "43" of the Complaint.
44. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "44" of the Complaint.
45. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "45" of the Complaint.
46. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "46" of the Complaint.
47. Defendants admit the allegations contained in paragraph designated "47" of the Complaint.
48. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "48" of the Complaint.
49. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "49" of the Complaint.
50. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "50" of the Complaint.
51. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "51" of the Complaint.
52. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "52" of the Complaint.
53. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "53" of the Complaint.
54. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "54" of the Complaint.
55. Defendants admit the allegations contained in paragraph designated "55" of the Complaint.

56. Defendants admit the allegations contained in paragraph designated "56" of the Complaint.

57. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "57" of the Complaint, except to admit that at the time Janney did not prohibit payment to finders.

58. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "58" of the Complaint.

59. Defendants admit the allegations contained in paragraph designated "59" of the Complaint.

60. Defendants admit the allegations contained in paragraph designated "60" of the Complaint.

61. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "61" of the Complaint.

62. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "62" of the Complaint.

63. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "63" of the Complaint.

64. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "64" of the Complaint.

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the allegations contained in paragraph designated "71" of the Complaint.

72. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "72" of the Complaint.

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97. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "97" of the Complaint.

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101. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "101" of the Complaint.

102. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "102" of the Complaint.

103. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "103" of the Complaint.

104. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "104" of the Complaint.

105. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "105" of the Complaint.

106. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "106" of the Complaint.

107. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "107" of the Complaint.

108. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "108" of the Complaint.

109. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "109" of the Complaint.

110. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "110" of the Complaint.

111. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "111" of the Complaint.

112. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "112" of the Complaint.

113. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "113" of the Complaint.

114. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "114" of the Complaint.

115. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "115" of the Complaint.

116. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "116" of the Complaint.

117. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "117" of the Complaint.

118. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "118" of the Complaint.

119. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "119" of the Complaint.

120. Defendants deny knowledge or information sufficient to form a belief as to

the allegations contained in paragraph designated "120" of the Complaint.

121. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "121" of the Complaint.

122. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "122" of the Complaint.

123. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "123" of the Complaint.

124. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "124" of the Complaint.

125. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "125" of the Complaint.

126. Defendants deny the allegations contained in paragraph designated "126" of the Amended Complaint, but admit that the Maclis owned LUMAC.

127. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "127" of the Complaint but admit the Maclis had full-time jobs outside the securities industry, that T. Macli was a letter carrier for the Postal Service and D. Macli worked for a dentist as a receptionist.

128. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "128" of the Complaint.

129. Defendants deny the allegations contained in paragraph designated "129" of the Complaint.

130. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "130" of the Complaint.

131. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "131" of the Complaint.

132. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "132" of the Complaint.

133. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "133" of the Complaint.

134. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "134" of the Complaint.

135. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "135" of the Complaint.

136. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "136" of the Complaint.

137. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "137" of the Complaint.

138. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "138" of the Complaint.

139. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "139" of the Complaint.

140. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "140" of the Complaint.

141. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "141" of the Complaint.

142. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "142" of the Complaint.

143. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "143" of the Complaint.

144. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "144" of the Complaint.

145. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "145" of the Complaint.

146. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "146" of the Complaint.

147. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "147" of the Complaint.

148. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "148" of the Complaint.

149. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "149" of the Complaint.

150. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "150" of the Complaint.

151. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "151" of the Complaint.

152. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "152" of the Complaint.

FIRST AFFIRMATIVE DEFENSE

153. The Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

154. Plaintiff's request for disgorgements is unwarranted as Defendants did not receive financial gain from any alleged improper acts.

THIRD AFFIRMATIVE DEFENSE

155. Plaintiff is not entitled to the relief requested herein, as it failed to provide Defendants with due process of law prior to entering the Order to Show Cause, Temporary Restraining Order, Preliminary injunction, Order to Freeze Assets, Order for Accounting, and Order Granting Other Relief that is currently in place.

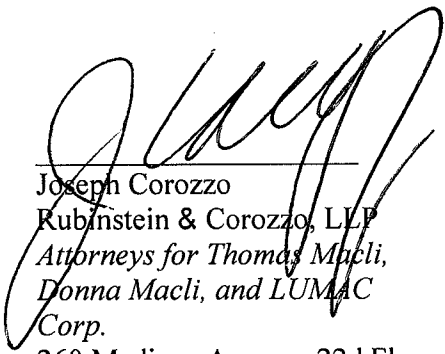
FOURTH AFFIRMATIVE DEFENSE

156. Plaintiff's claims are barred for failure to comply with the requirements of Rule 9(b) of the Federal Rules of Civil Procedure.

157. Defendants reserves their right to supplement defenses to the Complaint as additional facts and/or information are discovered.

WHEREFORE, Defendants Thomas Macli, Donna Macli, and LUMAC CORP. demand judgment dismissing the Complaint herein, along with attorneys fees, costs, and disbursements incurred by said Defendants and for such other relief this Court deems just and proper.

Dated: January 31, 2012



Joseph Corozzo
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Donna Macli, and LUMAC
Corp.*
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